

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAURICE MOORE,

Plaintiff,

Case No. 12-cv-14783
Hon. Matthew F. Leitman

v.

CARMEN PALMER *et al.*,

Defendants.

/

**ORDER GRANTING IN PART, DENYING IN PART, AND TAKING
UNDER ADVISEMENT IN PART DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT (ECF # 107)**

Plaintiff Maurice Moore (“Moore”) is a former inmate of the Michigan Department of Corrections (“MDOC”). In this action, Moore has alleged that numerous MDOC employees and officials violated his First and Eighth Amendment rights. Moore also has asserted claims under Michigan state law for gross negligence and intentional infliction of emotional distress. All of Moore’s claims relate to his allegation that he was repeatedly and viciously assaulted by members of the Latin Counts gang (or inmates acting at the behest of the Latin Counts gang) while in MDOC custody. (*See generally* Compl., ECF #1.)

On March 15, 2016, the remaining MDOC Defendants¹ in this action – James Alexander, Timothy Kipp, Chad LaCount, Matthew Macauley, Lincoln Marshall, Ken Niemisto, Shane Place, Anthony Stewart, and Robert Sutherland (collectively, “Defendants”) – filed a motion for summary judgment on all of Moore’s claims against them (the “Motion”). (*See* ECF #107.) On June 3, 2016, the Court held a hearing on the Motion. For the reasons stated on the record during the June 3, 2016 hearing, **IT IS HEREBY ORDERED** that:

- The Motion is **GRANTED** in favor of all Defendants with respect to Moore’s First Amendment claims;
- The Motion is **GRANTED** in favor of all Defendants with respect to Moore’s gross negligence claims;
- The Motion is **GRANTED** in favor of all Defendants with respect to Moore’s intentional infliction of emotional distress claims;
- The Motion is **GRANTED** in favor of Defendants Timothy Kipp, Anthony Stewart, and Robert Sutherland with respect to Moore’s Eighth Amendment claims;

¹ On September 4, 2014, Defendant Betty Goodson was dismissed from this action. (*See* 09/04/2014 Dkt. Entry.) Moore then voluntarily dismissed John Does 1-20 on October 9, 2014. (*See* Notice of Stipulation to Voluntarily Dismiss John Doe [1-20], ECF #66 at 1, Pg. ID 235.) On August 12, 2015, the Court entered an Order dismissing MDOC Defendants James Armstrong, Joe Barrett, Chad Chaney, Brad Haney, Laura Heinritz, Daniel Heyns, Kenneth MacEachern, Debra Scutt, Richard Stapleton, Aaron Vroman, and Ray Wolfe from this action. (*See* ECF #87 at 3, Pg. ID 720.) On January 25, 2016, the Court entered a stipulated order dismissing Defendants Erica Huss, Richard McKeon, Robert Napel, Nannette Norwood, Carmen Palmer, John Prelesnik, and Dennis Straub from this action. (*See* Stipulated Order of Dismissal, ECF #104 at 1, Pg. ID 827.)

- The Motion is **DENIED** with respect to Moore's Eighth Amendment claims against Defendants James Alexander, Chad LaCount, and Lincoln Marshall; and
- The Motion is **TAKEN UNDER ADVISEMENT** with respect to Moore's Eighth Amendment claims against Defendants Matthew Macauley, Ken Niemisto, and Shane Place.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: June 6, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 6, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(313) 234-5113